

ACTION

§ 1216.1-3

Thank you for your consideration of this request.

Sincerely,
Name
Address
City, State, Zip Code
Telephone Number [Optional]

APPENDIX 1(B) TO PART 1215—FREEDOM OF INFORMATION ACT APPEAL LETTER (SAMPLE)

Appeal Officer
Name of Agency
Address of Agency
City, State, Zip Code

Re: Freedom of Information Act Appeal.

Dear _____:

This is an appeal under the Freedom of Information Act.

On (date), I requested documents under the Freedom of Information Act. My request was assigned the following identification number _____. On (date), I received a response to my request in a letter signed by (name of official). I appeal the denial of my request.

[Optional] The documents that were withheld must be disclosed under the FOIA because

[Optional] I appeal the decision to deny my request for a waiver of fees. I believe that I am entitled to a waiver of fees. Disclosure of the documents I requested is in the public interest because the information is likely to contribute significantly to public understanding of the operation or activities of government and is not primarily in my commercial interest. (Provide details)

[Optional] I appeal the decision to require me to pay review costs for this request. I am not seeking the documents for a commercial use. (Provide details)

[Optional] I appeal the decision to require me to pay search charges for this request. I am a reporter seeking information as part of news gathering and not for commercial use.

Thank you for your consideration of this appeal.

Sincerely,
Name
Address
City, State, Zip Code
Telephone Number [Optional]

(42 U.S.C. 5042(13); 5 U.S.C. 552)

PART 1216—NONDISPLACEMENT OF EMPLOYED WORKERS AND NONIMPAIRMENT OF CONTRACTS FOR SERVICE

Sec.

1216.1-1 Purpose.

1216.1-2 Applicability of this part.

1216.1-3 Policy.

1216.1-4 Exceptions.

AUTHORITY: Secs. 402(12), 404(a), 420 of Pub. L. 93-113, 87 Stat. 394, 408, 414.

SOURCE: 40 FR 16209, Apr. 10, 1975, unless otherwise noted.

§ 1216.1-1 Purpose.

This part establishes rules to assure that the services of volunteers are limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of, or result in the displacement of, employed workers or impair existing contracts for service. It implements section 404(a) of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113 (the "Act").

§ 1216.1-2 Applicability of this part.

(a) All full-time and part-time volunteers assigned, referred or serving pursuant to grants, contracts, or agreements made pursuant to the Act.

(b) All agencies and organizations to which the volunteers in paragraph (a) of this section are assigned, referred or provide services.

§ 1216.1-3 Policy.

(a) Volunteers enrolled or participating in programs referred to in paragraphs (a) and (b) of § 1216.1-2 may not perform any services or duties or engage in activities which would otherwise be performed by an employed worker as part of his assigned duties as an employee.

(b) Volunteer referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which will supplant the hiring of employed workers. This prohibition is violated if, prior to engaging a volunteer, an agency or organization referred to in § 1216.1-2(c) had intended to hire a person to undertake all or a substantial part of the services, duties, or other activities to be provided by the volunteer.

(c) Volunteers referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which result in the displacement of employed workers. Such volunteers may not perform services or duties which have been performed by or were assigned to, any of the following:

- (1) Presently employed workers,
 - (2) Employees who recently resigned or were discharged,
 - (3) Employees who are on leave (terminal, temporary, vacation, emergency, or sick), or
 - (4) Employees who are on strike or who are being locked out.
- (d) Volunteers referred to in paragraph (a) of this section may not perform any services or duties or engage in activities which impair existing contracts for service. This prohibition is violated if a contract for services is modified or cancelled because an agency or organization referred to in § 1216.1-2(b) engages a volunteer to provide or perform all or a substantial part of any services, duties, or other activities set forth in such contract. The term "contract for services" includes but is not limited to contracts, understandings and arrangements, either written or oral, to provide professional, managerial, technical, or administrative services.
- (e) Agencies and organizations referred to in § 1216.1-2(b) are prohibited from assigning or permitting volunteers referred to in § 1216.1-2(a) to perform any services or duties or engage in any activities prohibited by paragraphs (a) through (d) of this section.

§ 1216.1-4 Exceptions.

(a) The requirements of § 1216.1-3 are not applicable to the following, or similar, situations:

- (1) Funds are unavailable for the employment of sufficient staff to accomplish a program authorized or of a character eligible for assistance under the Act and the activity, service, or duty is otherwise appropriate for the assignment of a volunteer.
- (2) Volunteer services are required in order to avoid or relieve suffering threatened by or resulting from major natural disasters or civil disturbances.
- (3) Reasonable efforts to obtain employed workers have been unsuccessful due to the unavailability of persons within the community who are able, willing, and qualified to perform the needed activities.
- (4) The assignment of volunteers will significantly expand services to a target community over those which could be performed by existing paid staff, and

the activity, service or duty is otherwise appropriate for the assignment of a volunteer and no actual displacement of paid staff will occur as a result of the assignment.

(b) For the purposes of paragraphs (a)(1) and (4) of this section, the assignment is not appropriate for the assignment of a volunteer if:

- (1) The service, duty, or activity is principally a routine administrative or clerical task. This definition applies only to any service, duty, or activity performed by a volunteer receiving financial support apart from reimbursement for expenses.
- (2) The volunteer is not directly in contact with groups or individuals whom the Act is designed to serve or is not performing services, duties, or engaged in activities authorized or of a character eligible for assistance under the Act.

PART 1217—VISTA VOLUNTEER LEADER

Sec.

- 1217.1 Introduction.
- 1217.2 Establishment of position.
- 1217.3 Qualifications.
- 1217.4 Selection procedure.
- 1217.5 Allowances and benefits.
- 1217.6 Roles of volunteers.

AUTHORITY: Secs. 104(b) and 420 of Pub. L. 93-113, 87 Stat. 398 and 414.

SOURCE: 39 FR 44203, Dec. 23, 1974, unless otherwise noted.

§ 1217.1 Introduction.

Section 105(a)(1), Part A, of the Domestic Volunteer Service Act of 1973, Pub. L. 93-113, 87 Stat. 398, authorizes the Director of ACTION to pay VISTA volunteers a stipend not to exceed \$50 per month and a stipend not to exceed \$75 a month in the case of VISTA volunteers who have served for at least a year and have been designated volunteer leaders. Section 105(a)(1) further provides that the selection of volunteer leaders shall be pursuant to standards, established in regulations which the Director shall prescribe, which shall be based upon the experience and special skills and the demonstrated leadership of such persons among volunteers.